

**PUBLIC MEETING
March 4, 2010
MINUTES**

Chairman Mike Murray called the meeting to order at 9 a.m.

Commissioners Derek Brown and Andy Hunthausen were present. Others attending all or a portion of the meeting included K. Paul Stahl, Eric Bryson, Kelly Blake, Katie Jerstad, Michele Peterson, Jeff Sealey, Carole Byrnes, Lindsay Morgan, Cheryl Green, Kyle Thomas, Jack Walsh, Dennis Lay, James More, Andy Skinner, Jerry Hamlin, Elaine Marcille, Jim Taylor, Kevin Wall, Jeanne & Shauna Sticht, Jerry Christison, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Vendor Claims Report for the Week of March 1, 2010. (Marni Bentley)
- b. Resolution 2010-83 Ordering a Refund of Taxes/Fees/Assessments Paid by Othelia L. and Gregory E. Olson in the Amount of \$319.62. (Cheryl Green)
- c. Resolution 2010-84 Ordering a Refund of Taxes/Fees/Assessments Paid by Lee Enterprises, Inc. in the Amount of \$243.76. (Cheryl Green)
- d. Resolution 2010-85 Ordering a Refund of Taxes/Fees/Assessments Paid by Dan Brown in the Amount of \$43.53. (Cheryl Green)
- e. Resolution 2010-86 Ordering a Refund of Taxes/Fees/Assessments Paid by Michelle and Jessica Mangini in the Amount of \$203.18. (Cheryl Green)
- f. County Tax Appeal Board Appointments (Carole Byrnes)
- g. Proclamation Celebrating 50th Anniversary of Lewis and Clark Search and Rescue and Proclaiming March 6th as Lewis and Clark Search and Rescue Day in Lewis and Clark County. (Andy Hunthausen)
- h. Memorandum of Agreement for Montana Dept. of Environmental Quality, Remediation Division, Abandoned Mine Lands Section and Lewis and Clark County for Hauling on Ottawa Gulch Road and Belmont Drive. (Kyle Thomas)

CAO Bryson reported on the consent action items and recommended approval.

Commissioner Brown moved to pull item 'f' for discussion. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

No public comments were received.

Commissioner Brown moved approval of items 'a' through 'h' with 'f' removed. Commissioner Hunthausen seconded the motion to approve the consent action items. The motion carried 3-0.

Item 'f.' Tax Appeal Board. There were two vacancies on the board. One opening was due to a resignation and another due to a death. Applications were submitted by John (Jeff) Noonan and Harry Jacobs.

No public comments were received.

Commissioner Brown moved to appoint both of the applicants to fill the two positions. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Commissioner Murray read item 'g,' the Search and Rescue Proclamation.

Reconsideration of Preliminary Plat Approval and Associated Conditions for Fox Trot Estates Subdivision-II. (Applicants Jerry and Genevieve Christison) (Planner: Lindsay Morgan) (Tabled from 2/9/10) The Commission will reconsider the preliminary plat approval and associated conditions for the Fox Trot Estates Subdivision - II, creating 13 lots, each to be used for one single-family dwelling. The original preliminary plat approval was granted on April 27, 2006. The district court remanded back to the county commission for reconsideration of condition of approval #8 and also the denial of a variance from the requirement that Lake Helena Drive meet County Road Standards (Typical Section No. 2).

Deputy County Attorney Sealey presented a legal memo with a staff recommendation. The memo provides a calculation to determine what the subdivision's impact is in relation to other traffic on the road using average annual daily trips. It was recommended that the applicants pay 7.39 percent of the cost of the north segment and 6.61 percent of the south segment. This would also include approving the variance that was originally denied because this does not line up exactly with the regulations that were in effect in 2005. Mr. Sealey submitted draft findings and conclusions. Calculations included actual traffic counts plus a two or 3 percent growth factor that the applicant's engineer may have used.

Jerry Christison, 5220 Lake Helena Drive, Helena, stated that he does not understand the new request to upgrade the county road past his subdivision to Hauser Dam, Black Sandy, and the Causeway Bar. He does not agree with the study which states four houses can create 100 trips a day and would like to see more information about that.

Ken Dyrud, 111 N. Higgins Avenue, Suite 500, Missoula, 59807, represents Mr. Christison. In his powerpoint presentation issues that been raised in the memoranda provided by the county attorney's office were raised. Constitutional issues were discussed and state statutes were reviewed; specifically, justification for requiring financial contribution from a developer for upgrading a public road or infrastructure; and impact fees.

Break – 10 minutes.

Ron Nelson, 4975 Fox Trot. Commented about the increased traffic in the subdivision. He cannot believe that four houses equate to 9.57 trips a day per vehicle. The current condition of the road is very poor. The amount of gravel truck traffic has increased significantly.

Jeanne Sticht, 2074 Wooten Road, pays a \$300 road maintenance fee but Wooten Road has not been paved and she plows the road.

Andy Skinner stated this matter should have been settled a long time ago. These lawsuits should not be in court because they are going to cost the county a lot of money.

Jim More, 159 Holms Gulch Road, Clancy. Work together and look at options to attain common goals.

Ralph Sorenson, 114 Prairie Road West. He recounted the problem he had with his major subdivision.

Byron Roberts, 901 Dearborn. Talked about imposing impact fees and getting back to the basic way we have funded local government infrastructure.

John Herrin, 2855 Sundown Road, distributed a summary of his testimony.

Elaine Marcille, Executive Officer, Helena Building Industry Association. Some creative thinking will help repair Lake Helena Drive. Consistency is necessary to the building industry, referring to the changing subdivision regulations.

Dennis Lay. He stated there is more confusion and uncertainty and more risk involved with developing land.

Jack Walsh, 2024 8th Avenue, representing the Helena Building Industry Association. In order to restore a minimal level of confidence and predictability to the development process, the Commission must demonstrate that it will adhere to its own regulations and that it will not stretch the limits of a reasonable interpretation of its regulations.

Jerry Hamlin, 1625 University Street. The county needs to re-evaluate other financing mechanisms, continue to press the idea of creating RIDs, and financing through mill levies on a county-wide basis.

Jim Taylor, 8422 Diamond Springs Drive, shared his perspective on the subdivision process. The subdivision regulations are confusing and unpredictable. It would help to have more cooperation, more inclusion, and more consideration of other means to provide reasonable regulations of growth and come to terms on how to handle the road situations and infrastructure.

Commissioner Hunthausen asked Mr. Sealey to elaborate on the interpretation of the commission's authority to mitigate the issues that have been addressed.

Jeff Sealey referenced the county attorney's legal memo and reviewed Mr. Dyrud's testimony about criteria for local government review of subdivisions. The authority is in

the review criteria to require contributions from developers to further offsite road improvements and is a legitimate way to mitigate negative impacts.

The public hearing was closed.

Commissioner Brown moved that the commission render a decision on March 16. Commissioner Hunthausen seconded the motion for discussion purposes. After discussion, a question on the motion was called, Hunthausen and Murray voted no.

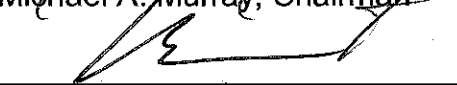
Commissioner Hunthausen offered a substitute motion to render a decision on March 30 at 9 a.m. Commissioner Murray seconded the motion. Commissioner Brown opposed the motion. The motion carried 2-1.

Public comments on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

There was no other business, the meeting adjourned at 11:31 a.m.

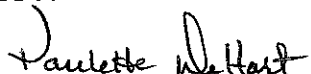
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael A. Murray, Chairman


Derek Brown


Andy Hunthausen

ATTEST:


Paulette DeHart, Clerk of the Board